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No plot, Westmoreland insists General denies ceiling on enemy troops

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NEW YORK—Occasionally rising from the witness stand to stretch a sore back, retired Gen. William Westmoreland continued his marathon testimony in his libel suit against CBS by insisting that he had not imposed a ceiling on estimates of communist troop strength in Vietnam.

The network's attorney, David Boies, nearing the end of his cross-examination Monday of the retired four-star general, challenged Westmoreland's assertions on the ceiling controversy and on several other disputed issues in the complex case.

CBS, in the documentary that led to Westmoreland's \$120 million suit, charged that Westmoreland and his senior staff members entered into a "conspiracy" in 1967 to minimize enemy force levels to make it appear the war was being won so that Washington would approve reinforcements.

According to the 1982 program, the deception was accomplished principally by eliminating from published intelligence reports the Viet Cong's village-based "self-defense" units and by placing an arbitrary ceiling of 300,000 on overall communist troop deployment.

A Earlier in the trial, George Carver, director of the CIA's Vietnam desk through much of the war, testified that a number of military officials were under the impression that Westmoreland had ordered that the 300,000 mark not be surpassed.

APPEARING AS a witness for Westmoreland, Carver also said that when he informed the general of this apparently widely held assumption, Westmoreland moved immediately to instruct his aides that there was no such order.

Partly contradicting Carver's testimony, Westmoreland, 70, told the jurors Monday that he was unaware in 1967 that anyone

thought a ceiling had been imposed. Reminded by Boies of Carver's assertion, the general then backtracked and acknowledged that the CIA official had indeed mentioned to him the matter of the supposed ceiling.

On another critical question, Westmoreland conceded that during a Pentagon briefing he conducted for the press in November of 1967, he failed to mention that the revised and substantially lower estimates of combined enemy troop strength that had just been published did not include the self-defense units. The earlier, higher estimates had counted these forces.

Arguing that at the time he did not have the "authority" to divulge this obviously significant information, the general added: "I don't know why I didn't [have the authority]; I know I wasn't very happy about it."

TWO WEEKS ago, Westmoreland's lawyer, Daniel Burt, read to the jury news articles that appeared after the CBS documentary, all of them highly critical of the general. The purpose of that exercise was to establish, as required in a libel case, that the victim suffered damage from the material.

Boies countered this move Monday by reading from another series of press accounts that appeared during the war itself, about 14 years before the documentary was broadcast.

What Boies was trying to do was to show that Westmoreland already was a highly controversial public figure with a negative image in some circles and therefore could not have been further damaged by the documentary.

One of the excerpts Boies read was from a Time magazine story in 1968 in which the author asserted that Westmoreland's command of the war was marred by expressing "over-optimism" too often and by tolerating "poor" intelligence-gathering from his staff.